

REMARKS

Claims 16, 19 and 21-26 are currently pending in this application. Claims 1-15 were canceled by Preliminary Amendment. Claims 17, 18 and 20 were canceled and new claims 24-26 were added in a previous Amendment dated July 29, 2004. This Amendment amends the specification and claims 16, 21, 25 and 26, and adds new claim 27. Support for the amendments to the specification and claims can be found in the specification and claims as originally filed. No new matter has been added.

The Examiner has indicated that claims 24 and 26 contain allowable subject matter and would be allowable if rewritten to overcome the § 112 rejection (i.e., claim 25) and to include all of the limitations of the base claim and any intervening claims.

The Examiner has objected to claims 16 and 26 for certain informalities. As suggested by the Examiner, the word "consisting" in claim 16 has been replaced with the word consist, and the word "and" has been deleted and two commas have been added in line 3 of claim 26. Therefore, withdrawal of the objection of claims 16 and 26 is respectfully requested.

The Examiner has objected to claim 21 under 37 C.F.R. § 1.75 as being in improper dependent form for failing to limit further the subject matter of a previous claim. Specifically, the Examiner asserts that the recitation "diferrocenium derivative cation" broadens the scope of the subject matter of claim 16 from which claim 21 depends. In response, the recitation "diferrocenium derivative cation" has been deleted and the phrase "(2-ferroceniummethyl) ferrocenium cation" has been added to claim 21. Support for the amendment to claim 21 can be found, for example, on page 4, paragraphs 1 and 2 of the specification as represented by the substance having general formula (I). In view of the above, withdrawal of the objection of claim 21 is respectfully requested.

Page 6, first paragraph of the specification has also been amended to include language that is consistent with amended claim 21.

The Examiner has rejected claims 21 and 25 under 35 U.S.C. § 112, second paragraph, for indefiniteness. The Examiner asserts that it is unclear what is meant by the phrase "diferrocenium derivative cation" in claim 21. As previously stated, the phrase "diferrocenium derivative cation" has been deleted. Also, the Examiner asserts that it is unclear whether the two compounds of the mixture in claim 25 constitutes compounds from either different Markush group elements or from the same group element. In response, claim

25 has been amended thus deleting the Markush group elements for the two compounds of the mixture. New claim 27 has been added to include the Markush group elements for the two compounds of the mixture deleted from amended claim 25. In view of the above, withdrawal of the rejection and allowance of claim 25 and new claim 27 is respectfully requested.

The Examiner has maintained the rejection of claims 16, 19 and 21-23 under 35 U.S.C. § 102(e) for anticipation and 35 U.S.C. § 103(a) for obviousness over U.S. Patent No. 6,100,352 to Shouzaki et al. (hereinafter "the Shouzaki patent"). The Examiner asserts that the Shouzaki patent teaches the claimed materials as isolated materials to be combined along with additional ingredients in forming the catalyst. Furthermore, the Examiner asserts that Applicant's disclosure teaches that such isolated materials of the Shouzaki patent inherently possess the claimed catalytic qualities. Therefore, the Examiner contends that the Shouzaki patent teaches the materials of the claimed invention. Applicant disagrees with the Examiner's assertions for the reasons discussed below.

The Shouzaki patent discloses a catalyst consisting of (a) a transitional metal compound, (b1) a compound capable of forming an ionic compound by reacting with the transition metal compound, (b2) a specific oxygen containing compound, and if necessary (d) an alkylating agent, which comprises subjecting to a polymerization reaction to a monomer to which (c) an oxygen-containing compound having a branch alkyl group, or (c) said oxygen-containing compound and (d) all or a part of an alkylating agent have previously been added (Abstract). Although the Shouzaki patent discloses individual ingredients that can be used to make up the claimed catalyst, the specific combination of materials that make up the catalyst of the present invention are not disclosed in the Shouzaki patent.

In the previous Amendment dated February 15, 2005, claim 16 was amended to include the closed-ended transitional phrase "consisting of" to replace the open-ended "comprising" language. Courts have interpreted the "consisting of" language to mean that the claims cover only the combination of specified components recited in the body of the claim, i.e., no more and no less. The Examiner has also admitted that the catalyst of the Shouzaki patent requires additional ingredients to be effective (page 6 of the Office Action). Therefore, the Shouzaki patent does not teach the specific combination of ingredients that form the catalyst of the claimed invention. In view of the above, claims 16, 19 and 21-23 are

believed to be distinguishable over the Shouzaki patent. Accordingly, reconsideration and withdrawal of the rejection of claims 16, 19 and 21-23 are respectfully requested.

In view of the foregoing amendments and remarks, Applicant believes that claims 16, 19 and 21-27 are patentable over the prior art of record and are in condition for allowance.

Respectfully submitted,

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